

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

KIRK LEE LONEY,

Plaintiff,

v.

MARK SIMS, et al.

Defendant.

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) **Civil Action No. 3:08CV820**
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MOTION FOR SUMMARY JUDGMENT

OFFICER MARK SIMS ("OFFICER SIMS"), pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rules 7(K) and 56 of the Eastern District of Virginia, moves for the entry of Summary Judgment in his favor, as follows:

1. This action arises from an attempted evening traffic stop that occurred in Northside on December 8, 2006.

2. At the time of the alleged incident, Plaintiff was driving near the corner of Old Brook Road and North Avenue.

3. At the time of the alleged incident, Officer Sims was on patrol in Northside.

4. He was on traffic patrol with State Trooper Raymond George ("Trooper George").

5. Officer Sims observed Plaintiff driving his vehicle with a broken taillight.

6. He attempted to pull Plaintiff over because of his broken taillight by turning their marked patrol car's emergency lights.

7. Officer Sims then observed the Plaintiff briefly speak to his passenger and then speed off, not observing the emergency lights.

8. Plaintiff led Officer Sims and Trooper George on a high speed chase through the City of Richmond.

9. Plaintiff struck an oncoming vehicle and ultimately hit a fire hydrant.

10. After Plaintiff's vehicle came to a stop, Officer Sims observed plaintiff attempting to flee by crawling over his passenger.

11. Officer Sims then ran, caught and tackled the plaintiff, who was much larger than him.

12. During this time, Plaintiff continued to resist.

13. Officer Sims and Trooper George told the Plaintiff to stop resisting, but he continued and attempted to reach a weapon on his person and one on Officer Sims.

14. Because of Plaintiff's continued resistance, and refusal to obey commands, Trooper George was forced to use his asp to restrain the Plaintiff.

15. Both Officers were forced to take Plaintiff to the ground and handcuff him.

16. Plaintiff continued to resist.

17. Plaintiff was taken by ambulance to MCV. Neither Officer accompanied the Plaintiff in the ambulance.

18. The Plaintiff refused to identify himself until he arrived at the hospital.

19. At that time, officers from the City of Richmond's Police Department determined that Plaintiff was wanted on felony drug charges by the Federal Government.

20. In the present circumstance, Officer Sims is entitled to Qualified Immunity because he did nothing wrong. Specifically, Officer Sims did not violate any of Plaintiff's constitutional rights.

WHEREFORE, Officer Mark Sims requests the entry of Summary Judgment in his favor.

Respectfully Submitted,

MARK SIMS

By Counsel

/s/

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RULE 7(K) WARNING

(1) The pro se party is entitled to file a response opposing the motion and that any such response must be filed within twenty-one (21) days of the date on which the dispositive or partially dispositive motion is filed; and

(2) The Court could dismiss the action on the basis of the moving party's papers if the pro se party does not file a response; and

(3) The pro se party must identify all facts stated by the moving party with which the pro se party disagrees and must set forth the pro se party's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and

(4) The pro se party is also entitled to file a legal brief in opposition to the one filed by the moving party.

CERTIFICATE

I hereby certify that on this 13th day of June, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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/s/

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